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ABSTRACT

The speed with which the Whigs and Tories recognized the mythical value of events of March 5, 1770, provides students of rhetoric with an example of how violent confrontation can be used for political purposes. Analysis of eye witness accounts of what history has named the Boston Massacre--including an original account of the event by the town of Boston and the transcript of the British soldiers' trial that was held from November 27 to December 5, 1770--shows a contrast between the motives of the alleged participants as portrayed in pretrial rhetorical discourse and the legal arguments for establishing cause at the trial. By studying additional rhetorical forms, including sermons, engravings, and strategies used to promote a particular interpretation of events for audiences in England, it is clear that when historical events are transformed by means of mythical orientations common to rhetoric, they become rhetorical myths. (DF)

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THE MAKING OF A MYTH: RHETORIC OF EYE WITNESS ACCOUNTS OF THE BOSTON MASSACRE

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The speed with which the colonial Whigs and Tories recognized the mythical value of events of March 5, 1770, provides the student of rhetoric with a vivid example of how violent confrontation can be used in persuasive strategies for achieving political purposes. In his book, The Boston Massacre, Hiller Zobel states it is unlikely we can know exactly what or how events transpired on March 5, 1770. He states that what we think of as "the Boston Massacre, is, in short, a part not only of our national history, but our national mythology." [1] As Kurt Ritter stated in his article, "the rhetoric became the reality of the Boston Massacre." [2]

Central to this paper is the following function of myth by Roland Barthes:

> Myth does not deny things, on the contrary, its function is to talk about them; simply, it purifies them, it makes them innocent, it gives them a natural and eternal justification, it gives them a clarity which is not that of an explanation, but that of a statement of fact. [3]

To paraphrase Barthes, we might question the degree to which eye witness accounts of the March 5, 1770 confrontation had "already been worked on so as to make [them] suitable for communication."[4] As this paper will demonstrate, primary accounts of the confrontation vary widely. Ernst Cassirer offered insight into the simultaneous emergence of rhetorical discourse and myth in An Essay On Man.

> Myth has, as it were, a double face. On the one hand it shows us a conceptual, on the other hand a perceptual structure. It is not a mere mass of unorganized and confused ideas; it depends upon a definite mode of perception. If myth did not perceive the world it a different way it could not judge or interpret it in its specific manner. [5]

In this paper the evolution of the "Boston Massacre" will be traced by charting how the events of March 5, 1770, the participants and their motives were depicted in rhetorical accounts of the time. Two texts will be the primary focus of the analysis: (1) the original account of the event by the Town of Boston, entitled A Short Narrative of the Horrid Massacre in Boston; and, (2) the transcript of the trial of the Britsh soldiers held in November-December,

1770. By using primary accounts of the confrontation, the motives of the participants as portrayed in pre-trial rhetorical discourse will be contrasted with the legal arguments for establishing cause at the trial. Additional rhetorical forms will be reviewed in terms of how they supported or refuted essential claims of the Short Narrative and the trials. Specifically, the following rhetorical forms were considered: primary accounts of what took place on March 5, 1770; sermons; engravings; and strategies used to promote a particular interpretation of events for audiences in England.

Two accounts of the events on March 5, 1770 by Mercy Otis Warren and Peter Oliver illustrated how divergent testimonies of the same event could be. Mercy Otis Warren, related by birth and marriage to leading spokesmen for the Whigs, referred to the event as a "sudden popular commotion," and a "disorderly and riotous assemblage of a thoughtless multitude." Additionally, she wrote a vivid account of "military muder," in which "five or six fell at first fire, several dangerously wounded at their own doors."[6] It is important to note that this account contains several incorrect statements, such as the number of people who fell at first fire. Evidence presented at the trials and in support of the Short Narrative, leads one to conclude that only a single gun was initially fired, rather than five or six in unison. By calling it "military murder," Otis Warren places blame entirely with the soldiers. She writes that the sentinel "seized and abused a boy for insulting an officer." Additionally, the soldiers are depicted as aggressors who "ran through the streets sword in hand, threatening and wounding the people, and with every appearance of hostility. . . rushed furiously to the centre of town ready for execution." Captain Preston is described as giving "orders to fire promiscuously among unarmed multitude."

Thus, in her account, Mercy Otis Warren justified the use of the term "military murder" by presenting the British soldiers as aggressive, violent, and

ready to execute the act "promiscuously." It would seem that if the events involved so malicious an aggressor as Otis Warren's account depicted, the scenario would also involve innocent victims. The account claims Captain Preston gave an order to fire indiscriminately on the crowd, certainly suggesting that he was guilty of a deliberate act. Like many other Whig accounts written shortly after the confrontation, Mercy Otis Warren found him guilty of murder. Whether he gave such an order remained a disputed issue even after the trials were over.

Peter Oliver was an outspoken Tory who sat as a judge during the trial of the soldiers. In his journal he provided an account contrary to that of Otis Warren. He wrote of a "riot. . . which was common custom," "bonfires in the street," "accustomed outrages" against the soldiers by citizens, and the "murderous design . . .fixed upon the Time of the Assault."[7] In this account, one reads of an event provoked by a noisy, riotous populace that planned to force the confrontation "by murderous design." Oliver refers to the inhabitants of Boston as "Rabble," involving "4 or 500 collected rioters who pelted the Soldiers with Brickbats, ice, oystershells, and broken glass bottles." And it was a "stout fellow of the Mob" who knocked down and "wrested a gun from one of the soldiers." The soldiers, from Oliver's point of view, "met with repeated abuses and provokations," and when faced with abuse from the mob "returned Compliment for Compliment and Blow was answered by a Bruise." Concerning Captain Preston, Oliver found him "amiable, cool and solid." Furthermore, there "was no proof of Capt. Preston giving the order to fire." Not only does Captain Preston appear to be without blame, but Oliver presents the soldiers as the abused victims of repeated mob assaults.

By the day following the killings, colonial responses were being organized by leaders of the Whigs, and subsequently a consistent portrayal of events appeared in the minutes of town meetings, in newspaper articles, and in sermons.

Zobel pointed to an underlying commonality in Whig accounts:

> . . .no one leafing the pages of the Boston Gazette for 1770 or reading the bloody-shirt waving tirades which until 1784 commemorated the anniversaries of the "Bloody Tragedy" can doubt that the patriot propagandists knew a good pot boiler when they saw one. And no one examining the correspondence between General Gage and Lieutentant Colonel Alrymply. . . or the various comments of Acting Governor Hutchinson and Judge Peter Oliver could doubt that the royalists knew that an explosion between soldiers and civilians was inevitable. [8]

By Sunday, March 11, 1770 Reverend John Lathrop of the Second Church in Boston delivered a sermon entitled, "Innocent Blood Crying to God from the Ground." [9] It was a complete indictment of the soldiers, exoneration of the inhabitants of Boston, and condemnation of the act on both moral and legal grounds. Having been in attendance at what was considered the largest funeral to be held in the colonies, Lathrop told his congregation that he found "universal solemnity in ye faces of ye prodigious multitudes. . .who attended ye funeral of our poor murdered bretheren." He continued with a sacrificial theme by stating, "The unparalleled barbarity of those who were lately guilty of murdering a number of our innocent fellow citizens." Lathrop's language implies not only were the soldiers guilty of muder, but that the citizens had a moral duty to avenge the deaths of fellow-citizens. "To allow the Massacre to pass without taking moral notice of it. . .would be criminal. . .Whoever fails to testify will have innocent blood crying for vengenance to fall on him." Such an appeal made from the pulpit offerred divine sanction for providing depositions as part of the Short Narrative, which was being prepared at the time of the sermon. [10]

Lathrop claimed that the government in Boston "stood not upon law, but upon ye naked sword for its support." The "massacre," according to the sermon, was a consequence of "some late ministerial proceedings to inforce oppresive measures and break the spirit of a people, determined to be free." While Mercy Otis Warren's account was a private indictment of the soldiers and Captain

Preston for the murder of five people, Reverend Lathrop's public condemnation of the act transformed the matter into one of moral, as well as legal, justice.

Peter Oliver, among others, noted the role of the clergy following March 5, when he wrote they "were by no means guilty of doing their work negligently. The pulpits rung their Chimes upon blood Guiltiness, in order to incite the people, some of whom would be Jurors, to revenge in cleansing the land of Blood which had been shed."[11] According to Zobel, "everyone in Boston realized that justice ran only on the paths chosen by the radicals."[12] The radicals, led by Sam Adams, controlled town meetings. And since jurors were selected by town meetings, the civil authorities were concerned whether the soldiers would receive a fair trial. But a more immediate concern existed on the morning of March 6--how to avoid further violence.

At 11:00 A.M. on March 6, a town meeting was called by John Hancock. At that meeting a committee was formed to take the following resolution to Lt. Governor Hutchinson:

> Resolved: That it is the unanimous opinion of this meeting that the inhabitants and soldiery can no longer live together in safety; that nothing can rationally be expected to restore the peace of the town and prevent further blood and carnage but the immediate removal of the troops; and that we therefore most fervently pray his honor that his power and influence may be asserted for their instant removal.[13]

Hutchinson initially replied that it was not within his power to countermand military orders. However, later in the day, following a second town meeting of several thousand citizens, Hutchinson and the Council decided the troops should be removed "to maintain peace in the Town."[14] By making the withdrawal of the troops their immediate concern, the Whigs were able to use the fear and rage following March 5 to their advantage. They had been trying to have the troops withdrawn since the fall of 1768. In the emotional context of March 6, 1770, the soldiers were vilified at the town meeting as the "instruments in executing a settled plot to massacre the inhabitants." The troops were viewed

by many not only as devil figures responsible for killing five people, but also as the agents of a higher authority which sought to do ill to the people of Boston. Most often, Whig rhetoric cited "the ministry" in London as the authority with whom the civil government and military in Boston conspired.

On March 8, a committee was instructed by the town meeting to gather depositions about events on March 5, in order to "prevent any ill impressions from being made upon the minds of his majesty's ministers, and others, against the town by unfriendly accounts." The leaders of the town meeting recognized the need for preventing a tarnished image from taking hold among the powerful members of Parliament. The Whigs were probably also aware that Lt. Governor Hutchinson and several of the commissioners would feel a need to justify their action of removing troops from Boston. Linking the Commissioners of Customs and military as co-agents in hostile acts against the people of Boston was a useful strategy for several reasons. The commissioners were vulnerable to public opinion, and if civil unrest continued in the colony the commissioners, who were appointed in Great Britain, might find their appointments withdrawn. Since they were charged with collecting revenue on items covered by the unpopular Townsend Acts, the commissioners became targets for colonial hostility for what they considered to be suppression of their liberties. Because the commissioners drew their salaries from revenue collected in the colonies, the boycott and riots in Boston made their economic positions tenuous. In the fall of 1768 troops were ordered into Boston to maintain civil order. In March, 1770 the troops were withdrawn because they had become the symbol for continuing civil unrest.

Hutchinson hurriedly gathered reports on the military situation and events on March 5, and dispatched them to London on March 16, carried by Commissioner James Robinson. Robinson also carried an affidavit from Secretary Andrew Oliver describing the heated debates of town meetings from March 6-8, which, along with Hutchinson's report was delivered to the ministry.

Sometime later these documents appeared in a pamphlet entitled A Fair Account of the Late Disturbances in Boston. When a copy of the pamphlet found its way back to Boston, James Bowdoin, who authored A Short Narrative, said: "Why this Deposition of the Secretary has defeated every thing we aimed at by the Narrative and Depositions sent home!" [15] This comment by Bowdoin suggests that the intended audience for the Short Narrative was in London, not Boston. And, thus, what was distressing about Hutchinson's and Oliver's reports reaching London first, was that any later versions of what happened might be viewed as a defensive move, and therefore less credible. Bowdoin was still writing the Short Narrative when Robinson set sail for London, and the Whigs were concerned that they had lost their political advantage.

On March 12, a letter from the Committee of the Town of Boston (consisting of John Hancock, Samuel Adams, Joseph Warren, and four others), addressed to Thomas Pownall, Governor of Massachusetts was approved. Although addressed to Pownall, the intended audience for this letter was British, as it would serve as an introduction to the Short Narrative and the depositions attached to it. The letter sought to offer the town's version of what happened, describe the soldier's behavior, and express concerns of the citizens of Boston. Regarding the purpose of the letter, the Committee wrote:

> The town of Boston. . .had directed us, their committee, to acquaint you of their present miserable situation, occasioned by the exorbitancy of the military power, which, in consequence of the intrigues of the wicked and designing men to bring us into a state of bondage and ruin, in direct repugnance of those rights which belong to us as men, and as British subjects, have long since been stationed among us. [16]

Concerning March 5, 1770, it is interesting to note that although the first of the ninty six depositions was not taken until March 12, this letter (also dated March 12) claimed to be based on an investigation. The letter read, "But when every examination was carefully made, it appeared that the soldiers were the first to assault, to threaten, and to apply contemptuous epithets to the

inhabitants."[17] The letter also claimed "by some of the evidence" there was reason to believe the soldiers "had been made use of by others as instruments for executing a . . .plot." Certainly whatever claims were made in the letter can be challenged, since the evidence upon which the claims were based had not yet been recorded. The letter contained assertions based on pre-conceived judgments, rather than upon eye witness evidence gathered from a number of people present on March 5.

The primary concern of the letter was the nature of the citizen-soldiery relationship as it existed prior to March 5, 1770. The document admitted the people were "greatly irritated. . . and abusive in their language towards the military." Their motives, however, were just because they were "provoked beyond endurance; and they were justly accused only of resisting a fierce and vindictive soldiery, as the hazard of life." The soldiers, on the other hand, "have treated us with an insolence which discovered in them an early prejudice against us." Upon arrival in Boston, the letter charges that the soldiers "had all the appearance of hostility. . .they marched thro' the town with all the ensigns of triumph and eventually designed to subject the inhabitants to the severe discipline of a garrison." Captain Preston is said to have given the order to fire "upon the inhabitants promiscuously in King Street, without the least warning of their intention."

In asserting the military was the "instrument[s] of others" in plotting against the people of Boston, the letter offers further support by recalling "a murder committed by people employed by custom-house officers and commissioners of an 11 year old boy." Because an employee of the custom house was in jail already for shooting 11-year old Christopher Seider on February 22, the commissioners, or their "instruments" might also be involved in events of March 5. Short of making an overt charge of conspiracy, the letter states, "But as it has been impossible for any person to collect a state of facts hitherto, we are

directed to do so." The fact that the evidence contained in the covering letter was based on little other than the political judgment of Whig leaders, establishes that both Whigs and Tories sought to create an interpretation of the confrontation on March 5, that was compatible with their political purposes.

The Whig interpretation of events on March 5, reinforced from the pulpit and town meetings, no doubt solidified public opinion in Boston. However, the various rhetorical forms used by the Whigs would likely appear too laden with emotionalism and unsubstantiated charges to impress the dispassionate reader in London who had separation in distance and time from the event to use as filters for judging the narratives. Cognizant of this, the Short Narrative attempted to provide a degree of credibility for its claims by attaching depositions from ninty six persons concerning what happened on March 5. The depositions were signed, and bore the seal of the Lt. Governor to verify the validity of the justices of the peace to hear such testimony. While Hutchinson's seal did not attest to the truth of the facts in the depositions, it gave the statements the appearance of legal documents. Since it was "intended primarily for circulation in England," the appearance of legal construction also presented the town of Boston as being fair minded in their efforts to investigate the events of March 5.

However, one does not have to read too far to realize that beneath the legalistic appearance, the Narrative served the political purposes of the Whigs. Written primarily by James Bowdoin, A Short Narrative of the Horrid Massacre in Boston on the 5th Day of March, 1770, by Soldiers of the 29th Regiment, was approved by a town meeting on March 19, and sent in pamphlet form to Great Britain. According to Zobel it received wide distribution in England throughout late April and May.[18] Aware of Hutchinson's and Oliver's pamphlet by this time, Bowdoin and the committee included "Additional Observations to A Short Narrative,"

which was a rebuttal of the pamphlet by Hutchinson and Oliver.

A Short Narrative begins with a chronology of events that led to the "outrage and massacre" which occured on March 5, 1770. This history was "necessary in order to get the just idea of the causes for it." [19] An additional reason for including a history might have been to present an argument for the orchestration of events on March 5 by the military. Four events were selected as contributing to "said massacre": (1) the Stamp Act and "other acts of Parliament for taxing America," (2) placing the Board of Commissioners in Boston, not "for the convenience of the whole" of the colonies, but as "partisans of Governor Bernard in his political schemes," (3) placement of two regiments of troops in Boston which was "contrary to the spirit of the Magna Carta. . .Bill of Rights. . .and the law", and (4) the conduct of the troops which "occasioned many quarrels and uneasiness."

Each of the four events is explained in terms of a negative consequence on the liberties of Boston. The legislation and the establishment of the Board of Commissioners in Boston "was made for the relief and encouragement of commerce, but in operation would have a contrary effect." Placing the commissioners in Boston caused "the late horrid massacre." The commissioners are named, and charged with being "partisans of Governor Bernard in his political schemes." They are responsible for "having contrived and executed plans for the exciting disturbances and tumults, which otherwise would probably never have existed." The commissioners also "transmitted to the ministry the most exaggerated accounts" of the unrest. Thus, while accounts by Otis Warren and Lathrop vilified the soldiers, the Narrative sought to broaden the charge of intent to do harm to the people of Boston to include the commissioners, and the parliamentary actions which put them in Boston.

Both legal and moral grievances were given in the following statement :

> Thus were we, in aggravation of our other embarrassments, embarrassed with troops, forced upon us contrary to our inclination, contrary to the

> spirit of the Magna Carta-contrary to the very letter of the Bill of Rights, in which it is declared that the raising or keeping of a standing army within the Kingdom in time of peace, unless it be with the consent of parliament, is against the law, and without the desire of the civil magistrates, to aid which was the pretence for sending troops hither; who were quartered in the town in direct violation of an act of parliament. . .and all this in consequence of the representations of the said Commissioners and the said Governor, as appears by their memorials and letters lately published. [20]

The conduct of the troops is also portrayed in negative terms. To document the "quarrels and uneasiness" which existed, a footnote claims that "while British troops were in Boston, the citizens, when it was necessary to be out in the evening, generally went around with walking-sticks, clubs to protect themselves from insult."[21] Six examples are presented of soldiers acting contrary to the peace of the community.

This highly "rhetorical" chronology laid the foundation for the Whig interpretation of the March 5 confrontation, and also molded the "facts" of the killings into a polarizing narrative, so that the reader is guided to the conclusion that the soldiers were guilty of murdering the five citizens of Boston as part of a larger design to deny the colonists their liberties, and even their lives.

The Narrative claims that in spite of the past relationship between citizens and soldiers, they could not have anticipated an act of such violence. "It was not expected, however, that such an outrage and massacre, as happened here on the evening of 5th instant, would have been perpetrated." In quasi-legal language, the document states, "There were then killed and wounded by a discharge of musketry, 11 of his Majesty's subjects." The victims are listed by name, and in some cases accompanying details were included. Regarding Mr. Samuel Gray, the document said he was "killed on the spot by a ball entering his head." An edition published in 1849 added a footnote quotation from Joseph Warren's 1775 oration: "After Mr. Gray had been shot thro' the body, and had fallen upon the ground, a bayonet was pushed thro' his skull, and his brains scattered

upon the pavement." From this we can see the evolution of the "Boston Massacre" mythology with addition of such dramatic footnoted materials.

The "actors" in this "dreadful tragedy" were the soldiers. Depositions are then included from ninty six witnesses, as evidence to support the Narrative's interpretation of events. John Adams wrote in his diary of the depositions taken from March 12-24, 1770: "They were the testimony of heated individuals. Much of the testimony in the Narrative now looked extravagent, and some was positively perjured." [22] Peter Oliver, a judge who sat during the trials of the soldiers said the Narrative "was crowded with the most notorious Falsities; which answered the Pusposes of the Faction, until the Trials at Law unravelled their Mysteries. . ."[23] Although a Tory, Oliver's assessment of the testimony proved correct for the most part. However, in mid-March when the depositions were taken, they were important support to bolster claims made in the Narrative, including the charge of conspiracy between the troops and commissioners.

At least five people testified to seeing or hearing shots fired from the Custom-House, which supported the conspiracy charge. Gilliam Bass, for example, swore that he saw "2 or 3 flashes so high above the rest, that he verily believes they must have come from the Custom-House windows." [24] Similar accounts were offered by four others, including Samuel Drowne who would be one of two witnesses charging that four people were firing at the inhabitants from inside the Custom House.

The Narrative also makes a distinction between "street actors" and "house actors." The seven soldiers and Captain Preston composed the former, and the four civilians the latter. If indeed shots were fired from the Custom House, then the conspiracy claim was strengthened. Drowne testified that "a tall man" with his face covered was seen from the window. Both Zobel and Hansen assumed this was a reference to Commissioner Robinson, who was quite tall. By the time the Narrative appeared in print, all but one of the commissioners had fled

Boston, thus accentuating the suspicion that they had something to hide.

Testimony in the Narrative was not unanimous regading Captain Preston's order to fire. Several witnesses stated they heard him give the order, and in summarizing the testimony on this point, Bowdoin wrote:

> By the foregoing dispositions it appears very clearly there was a general combination among the soldiers of the 29th regiment at least, to commit some extraordinary act of violence upon the town; that if the inhabitants attempted to repell it by firing even one gun upon those soldiers, the 14th regiment were ordered to be ready to assist them; and that the late butchery in King Street they actually were ready for that purpose. . . [25]

William Fallas charged that Preston and other soldiers "rushed by him with their arms, toward King Street, saying 'This is our time or chance.' And he never saw men or dogs so greedy for their prey. . ."[26]

At various times in the Narrative, the soldiers are described as "disgustful to the people, " "blameable cause of all disturbances and bloodshed," and "responsible for violent quarreling and fighting." People of Boston are portrayed as victims, or "peaceable inhabitants, "a large body of inhabitants," or simply as "a crowd." The events on March 5 were called a "dreadful tragedy," "bloody and horrid massacre," and the stage "of inhuman tragedy."

To ensure a hearing for their document, "Additional Observations on A Short Narrative" was appended to the depositions. It was clearly a refutation of what they assumed the Hutchinson-Oliver documents contained, and was therefore included as counter-persuasion. The appendix began by pointing out that the Board of Commissioners had not met since March 9, and that "all Commissioners (except Temple) fled Boston." [27]

Four possible arguments of the Tories were refuted. First of all, if other people claim "the Custom-House was attacked-a falsehood. There was not even a pane of glass broken." Second, if it was claimed "that the revenue chest was in danger-a falsehood. . .some of the people employed by the Commissioners are of an infamous character." This is a reference to Ebenezer Robinson who was

in jail at the time for murdering Christopher Seider. Considering the delicate political issue of troop withdrawl, the document stated "the troops compelled to quit the town-a falsehood. They quitted the town by orders of their commanding officer, and in consequence of a request from the Lt. Gov." The fact that a series of town meetings on March 6 occurred which pressured Hutchinson to act was not mentioned. But in case the London readers were not convinced of this latter point, the Narrative stated: "But supposing the troops had been compelled to quit the town. It would have been a measure justifiable in the sight of God and man." In other words, even if the town forced the troops to leave, it was a justifiable act. The fourth, and final item of refutation dealt with the commissioners who figured rather prominently in the Narrative's view of who was culpable in the five killings. "The commissioners obliged for their safety to quit the town-if one falsehood can be more than another, this is the greatest yet mentioned,and it is as ridiculous as it is false."[28]

Within this document the commissioners were depicted as being involved in political schemes with Governor Bernard and the ministry; as having employed murderers (E. Robinson); as exhibiting violence against members of the community (James Roninson's assault on James Otis); of using the troops for their own purposes; possibly of staging civil unrest to make the town look bad; and of being incompetent and cowardly by fleeing Boston. Perhaps the most serious allegation against the commissioners was that they, or their employees actually fired on the inhabitants from the Custom House window. Although the trials eventually proved this to be a completely contrived charge, it was sufficiently credible to have four civilians indicted for assisting in the murders.

An additional rhetorical form was printed on March 25, 1770, which may have contributed to the belief that someone in the Custom House fired on the citizens. Paul Revere published an engraving entitled "The Bloody Massacre perpetrated on King Street." Revere's print differed from the original sketch by Henry Pelham

in several ways, which were discussed in an article by John Agresto.[29] Agresto neglects to point out that in Revere's print a smoking rifle is visible from the second story window of the Custom House, while Pelham's sketch did not contain this feature. Revere's print was a vivid illustration of Whig rhetoric about events on March 5. His print appeared with the Narrative, and in broadside form as well. We can see how "facts" were distorted in the engraving to embellish the political purposes of radicals in Boston. The soldiers were firing in unison on unarmed citizens, with assistance from the gunman in the Custom House. The officer in charge also appears to be ordering a command with his sword. Thus, according to this pictoral account, the soldiers were ordered to fire on the unarmed citizens.

The appearance of Revere's print and the Narrative served as the culmination of the Whig public discourse immediately following events of March 5. Lobbying efforts between radical leaders and supporters in London continued throughout the spring. In a letter from James Bowdoin to William Bollan, an agent of the colonies in London, dated March 27, 1770 we glimpse another effort to present the Narrative as a credible account of events of March 5. Bowdoin's letter was mailed with the Narrative, which Bollan was instructed to distribute "to ward off any ill impressions" of the town and province which might be given by the Hutchinson-Oliver materials.

Bowdoin summarized essential items covered by the document, as well as making clear what Bollan was expected to do about "the horrid massacre, the particulars of which are contained in a Narrative just printed, and with depositions annexed to it, one of which is being sent to you by the Com. of the Town."[30] He stated the town was concerned that other interpretations might "make the town the faulty cause of the massacre, and to make it believed that the Custom House was in danger of being pillaged." Bollan was to "use [his] best endeavors to procure copies of these depositions. . .and transmit them as soon as possible."

The radicals had a strong supporter in Bollan, who responded on May 11, by letter, and said: "It [The Narrative] was accompanied with such ample proofs, consider's in point of number, candour, propriety and firmness of caption, that they will in time. . .establish the truth in the minds of all honest men."[31] Bollan said he planned to distribute copies to the House of Commons, although they would be ending their session in a short time.

The Committee of the Town of Boston also received assistance in the form of advice on how to be preceived in a favorable light why influential people in Britain, when in May, Parliament member Barlow Trecothick wrote:

> Just now in a conversation with the Duke of Richmond, his Grace (on every occasion a constitutional friend and patron of America) suggested an idea which if adopted might not only refute every calumny on the humanity, but also stamp a character of generosity on the inhabitants of Boston, as well as envive their affection to the mother country and the most sincere desire to make advances towards a full reconciliation. The idea is this: That in case Capt Preston and the soldiers, or any of them, should be sentenced to death, the inhabitants do in a public town meeting agree on an address to the Govr to suspend their executions, and to convey to his Majesty their humble request that he will be pleased to extend his royal mercy and pardon them.[32]

Trecothick's concerns were warranted, and many in both London and Boston feared that the soldiers might be found guilty, in which case they would be sentenced to death. Zobel stated: "In the passionate state of Boston's public opinion neither Sam Adams nor his opponents saw many reasons to believe a jury would acquit either Preston or his soldiers."[33] Thus, a situation developed in which the Whig rhetoric of March 5-12 had become so consistent in its portrayal of the soldiers as being motivated to "murder by design", that a related image problem emerged for the town of Boston. If the people of Boston could not provide evidence of a fair trial for the soldiers, the inhabitants would be seen as lawless and revengeful. On the other hand, how could an adequate defense be provided for the soldiers without publicly challenging the motives and behavior of the townspeople who provoked the self-defensive move by the soldiers?

Explanations of motives of both soldiers and townspeople would take on a

different cast as formal indictments were drafted. Throughout the rhetoric of of March 5-12, the motives of the soldiers were explained in terms of conspiracy with the commissioners to do harm to the people of Boston. But such an argument would not provide a sound legal argument, as it would be impossible to prove. On March 6, 1770 the search for a suitable defense of the soldiers brought two known Whigs onto the scene-John Adams and Josiah Quincy.

On the day following the killings, a Boston merchant named James Forrest went to John Adam's law office, and "with tears streaming from his eyes," begged Adams to defend Captain Preston. According to Adam's diary, Forrest said: "I am come with a very solemn message from a very unfortunate man. He wishes for counsel and can get none. I have waited on Mr. Quincy who says he will engage if you will give him your assistance. . .As God is my judge I believe him [Preston] an innocent man." [34] Adams replied: "That must be ascertained at his trial, and if he thinks he cannot have a fair trial without my assistance, without hesitation he shall have it." [35] Josiah Quincy also agreed to serve as attorney for the defense.

Thirteen men were indicted for murder, and tried in three separate proceedings during the fall of 1770. Approximately two weeks after the killings, Attorney General Jonathan Seawell drew up the indictments, in a lengthy and very graphic document. The indictment charged Captain Preston and eight soldiers with murder, although Preston was not cited for killing any particular individual. The document also charged Hammond Green, Thomas Greenwood, Edward Manwaring and John Munroe, all employees of the Custom House, with murder. Graphic details concerning the shooting of Crispus Attucks are contained in the indictment, which appears to be an indication of how the legal process had been influenced by Whig rhetoric in the emotional context of the killings.

Almost immediately after being arrested Captain Preston undertook to direct his own defense. In addition to acquiring Adams and Quincy as attornies,

he attempted to influence both the citizens of Boston and supporters of his innocence in London. Shortly after being arrested, Preston sent a letter to the Boston Gazette, which was published in the same issue with the account of the killings on King Street. The letter read:

> Messrs. Edes and Gill: Permit me thro' the channel of your paper, to return my thanks in the most public manner to the inhabitants in general of this town-who throwing aside all party and prejudice, have with the utmost humanity and freedom stept forth advocates for truth, in defense of my injured innocence, in this late unhappy affair that happened on Monday night last: and to assure them that I shall ever have the highest sense of the justice they have done me, which will be ever gratefully remembered by
> Their much obliged and most obedient humble servent,,
> Thomas Preston [36]

Hansen described Preston's attempts to convince the people in Britain of his innocence as beginning at once. "John Robinson, the Commissioner of Customs, carried it [Preston's statements to London] when he embarked for London a week later, and which was published in the Public Advertiser there on April 28." [37] Eight weeks later, Preston's "Case" as he presented it to London, found its way back to Boston. The "Faction" in Boston used Preston's statements as indicative of his true feelings about people of the town, and published passages from the London newspaper, in which Preston wrote:

> So bitter and inveterate are many of the Malcontents here that they are industriously using every Method to fish out Evidence to prove it was a concerted Scheme to murder the Inhabitants. Others are infusing the utmost Malice and Revenge into the minds of the People who are to be my Jurors by False Publications, Votes of Towns, and all other Articles, that so from a settled Rancour against the Officers and Troops in general, the Suddenness of my Trial after the Affair, while the People's Minds are all greatly inflamed, I am though perfectly innocent. . .having nothing in Reason to expect but the loss of life in a very ignominious manner, without the interposition of his Majesty's Royal Goodness. [38]

Hansen contends that Preston's friends advised him to do three things regarding his defense: (1) get the best liberal lawyers in town, (2) line up witnesses who would exonerate the Captain, and (3) pack the jury panel. [39] Evidence about Preston's trial indicates that he succeeded in doing all three. Adams and Quincy agreed to handle his defense on March 6. Thomas Hutchinson verified that Forrest's visit to John Adams was part of a defense strategy, whereby

Preston was told "to retain two gentlemen of the law who were strongly attached to the cause of liberty. . ."[40] Fifteen of the ninty six deponents testified at Preston's trial, and according to Zobel the attornies for the Crown "put all their good witnesses in the middle," in spite of "an axiom of litigation that a case should open and close with a strong witness."[41] No single witness could testify conclusively that it was Preston who ordered the soldiers to fire, and the defense was able to challenge the evidence which did suggest Preston's utterence of the order.

Lt. Governor Thomas Hutchinson was called to testify about Preston's behavior following the killings, and to provide a character witness. Zobel writes that the significance of Hutchinson's testimony was "his presence in the witness box, which reminded everybody that the King's own representative, and by clear implication His Majesty too, was lining up on Preston's side."[42] Another powerful witness for the defense was Richard Palmes, a merchant and former Son of Liberty, who testified that although he was directly involved in the scene, he could "not say Preston gave the order."

The charge of jury packing was dealt with in an April, 1969 article in the Journal of the American Bar Association, in which Zobel and Wroth named several "suspect" jurors in Preston's trial. Five later became loyalist exiles, and one was eventually given financial payment for his service in influencing the jury.[43] In addition, two of the judges-Auchmuty and Oliver were known to be British loyalists. Thus, no one who sat in on the trial of Thomas Preston, which took place from October 24-30, 1770 was surprised when after a few hours he was acquitted of the charge of murder. Preston departed for London in December, 1770.

From November 27-December 5, 1770 the trial of the British soldiers took place. A transcript was taken by Thomas Hodgson, which was published in the spring of 1771. In instructing the jury during the trial of the soldiers, Justice Trowbridge directed the jury to consider "how and for what purpose the prisoners came together at the Custom House, and what they did there before

these persons were killed?" [44]

With the acquittal of Preston, the defense faced a difficult task. If the soldiers could not claim to be acting under the direct orders of their superior officer, the central issue was one of self-defense. Josiah Qunicy said in his opening statements in what was perhaps the longest trial held in Massachusetts to that time:

> To what purpose the soldiers were sent; whether it was a step warranted by sound policy or not, we shall not inquire; we are to consider the troops, not as the instruments for wresting our rights, but as fellow citizens, who being tried by a law, extending to every individual claim a part in its benefits-its privileges-its mercy. [45]

In the eyes of defense attornies Adams and Quincy, "loomed the larger issue of damage to the colonial cause if the men did not get a fair trial." [46] Zobel, in a thorough account of the legal proceedings surrounding the trial, dubbed the scenario "Even the Guilty Deserve a Fair Trial." [47] In his opening statement for the defense, John Adams evoked the higher authority of the law, which he maintained transcended temporal considerations.

> The law, no passion can disturb,. . .'Tis deaf, inexorable, inflexible. On one hand, it is inexorable to the cries and lamentations of the prisoners; and on the other it is deaf, deaf as an adder to the clamour of the populace. [48]

The defense took great pains to present the soldiers as fellow citizens who were reacting to a hostile situation much the same way many of the people of Boston reacted. John Adams also made a separation of those who were provoking the confrontation with the soldiers and the peaceable inhabitants. By doing so, he was able to establish a self-defense case without being critical of the general population of the town who considered themselves peace-loving.

The defense called fifty two witnesses, but the testimony of three probably carried the greatest weight. The main strategy used by Adams and Quincy was to prove the soldiers acted out of self-defense, and if they were guilty at all it was of manslaughter and not murder.

The testimony of Patrick Keatan was critical because it established that Attucks was armed. He stated: "On the evening of the 5th of March I saw people coming from the north end, with sticks and clubs in their hands; I saw a tall mulatto fellow, the same that was killed, he had two clubs in his hand."[49] Testimony also established that Samuel Gray, the first man killed, was armed with a club, and that a crowd of boys threw snowballs and other objects at the sentry for some time. Andrew, a black slave of Mr. Oliver Wendell, was perhaps the most coherent and detailed witness. His testimony is cited by several historians for its clarity in establishing the general state of tumult on March 5. Dr. John Jeffries testified that he heard the dying thoughts of Patrick Carr, one of the victims, who admitted striking against "the soldier's guns, and throwing ice and oyster shells." Carr allegedly told the doctor that he was certain whoever shot him did not mean to, and that he forgave him. Such a deathbed testimonial contributed additional pathos to the trial, and implied that even one of the dying men felt the soldiers were acting without malice.

It was Josiah Quincy who had to handle the delicate matter of proving the soldiers were provoked by the crowd without tarnishing the image of the people of Boston. He quoted from the third letter of the "Farmer of Pennsylvania": "The cause of liberty, says that great and good writer, is a cause of too much dignity to be sullied by turbulence and tumult."[50] He outlined the growth of mutual hostilities between the inhabitants and the soldiers. But short of condemning the citizens of Boston for civil unrest, Quincy stated: "We have seen the blood of our fellow men flowing in the streets. We have been told that this blood was wrongfully shed. That is now the point in issue. But let it be borne deep upon the minds, that the prisoners are to be condemned by the evidence here in court and nothing else."[51] Quincy's closing argument dealt with the emotional tone of the times, and what role the circumstances played in the soldier's motives.

> What language more approbrious-what actions more exasperating, than those used on this occasion? Words, I am sensible, are no justification of blows, but they serve as the grand clues to discover the temper and designs of agents-they serve also to give us light in discerning the apprehensions and thoughts of those who are the objects of abuse. "You lobster backs, bloody-back, you coward, dastard," are but some of the expressions proved. What words more galling-what more cutting and provoking to a soldier? The quality of mercy is not strained. . .[52]

Extending on Quincy's summary, John Adams stated: "Every snowball, oyster-shell, cake of ice, or bit of cinder that was thrown that night at the sentinel, was an assault upon him; every one that was thrown at the party of soldiers, was an assault upon them, whether it hit any of them or not. . ."[53] Adams' skills of refutation of evidence were evident, as he summarized inconsistencies both within testimony for the Crown and in regard to the over-all case against his clients. The central issue for the Crown was whether or not the soldiers commited murder. Attorney for the Crown, Samuel Quincy, summarized his case:

> The crime of murder, Gentlemen, it will be agreed by all, necessarily involves in it the malice of heart, and that malice is so collected from the circumstances attending the action; but it is not necessary to constitute malice that it should be harboured long in the breast.[54]

According to the prosecution, it was their task to prove that the soldiers were present and did the killings, and that they were guilty of murder. It had to be proved that they had malice toward the people they killed in order to convict them of murder. The strongest case was against Killroy, who the Crown's attornies claimed "had strong marks of malice in his heart." Two of the twenty eight witnesses testified that Killroy's bayonet was bloodied, and several others verified his threats against Samuel Maverick, both earlier in the day and on King Street prior to the shootings. The summary of the Crown was primarily a review of the testimony, which was organized to link several of the soldiers to specific killings. The attornies for the Crown asserted that manslaughter was a likely interpretation of what happened in such a complex case.

Although the witnesses called to testify in the trial of the soldiers were the same ones who provided depositions attached to A Short Narrative,

the central claims their evidence was to support had been transformed. The conspiracy claim, and the charge of "military murder" which was so widespread in the days following March 5 had become a legal argument for cause. Pre-trial rhetoric attributed motives to the soldiers based upon mythical constructs. In the legal setting the central argument was whether or not the soldiers acted with malice or in self-defense. When Captain Preston was acquitted it was necessary for the Crown to prove the soldiers had malice aforethought, and deliberately killed five people. While malice was demonstrated in two instances, deliberate intent to kill was not. Thus, after meeting for less than three hours, the jury found six of the soldiers not guilty. Matthew Killroy and Hugh Montgomery were found not guilty of murder, but guilty of manslaughter. The latter two were branded on the thumbs several days later and set free.

One final trial took place related to the Boston Massacre, that of the four civilian employees of the Custom House. They were charged by the grand jury with abetting Warren, et. al. in the murder of Crispus Attucks. The trial took place on December 12, 1770 with all four acquitted by the jury which never left its box to make the decision! The four men were indicted on the basis of testimony from two witnesses-a 14 year old French boy named Charles Bougatte, and Samuel Drowne. The boy was a servant of one of the men on trial, and he testified that he and his master fired muskets from the Custom House window. Following the acquittal of the four men, Bougatte withdrew his testimony and was convicted of perjury. In other words, the legal proceeding which addressed the issue of conspiracy between the military and the commissioners ended with the primary witness being convicted of perjury. Hansen called this trial the worst act of misrepresentation of what took place on March 5, and Zobel considered it the "radicals real attempt to taint the custom officers with the King Street blood." [55]

Drowne was considered "dimwitted" and his testimony was discredited when he changed his story during the trial. Loyalists, such as Anne Hulton, the sister of one of the customs commissioners, applauded the outcome of the trial. She wrote in a letter to a friend in England:

> The impartial trial and honorable acquital of Capt: Preston and the soldiers, has the most happy effect, it has exposed the conduct of the Faction and opened the eyes of the people, in general convinced them that they had been deceived by the false opinions and false representations of Facts. . .These trials together with that of the Custom House Officers charged with Firing out of the C:H and the suborning of false witnesses which appeared on the trial, and the witnesses since commited the Perjury. [56]

Certain aspects of the trial warranted the labels "impartial" and "honorable", such as how Adams and Quincy discredited false testimony during the proceedings. However, there is little doubt that during Captain Preston's trial an acquittal was assured by means of a packed jury, bribery of jurors, and misrepresentation of facts. Four civilian employees of the Custom House were indicted on the testimony of two witnesses who were discredited. In other words, four men were tried for murder on the basis of contrived and perjured evidence provided by two witnesses who voiced the pre-trial Whig rhetoric. Rhetorical discourse, in the confrontational context of March 5, 1770, served an extra-legal function. These men probably would not have been tried in the courts, if they had not already been tried and convicted in Whig rhetoric shortly after the killings.

The arguments at the trials dealt more with law than morality, while the arguments of the Whig rhetoric after the killings dealt with morality more than law. The theme of conspiracy between the military and commissioners was a thread running through both the trial and non-legal discourse. It directly effected legal proceedings when the civilians were indicted on the basis of perjured evidence. And the heart of the Narrative's appeal-the ninty six depositions, provided much of the evidence for the trials. The myth of the "Boston Massacre," shaped in the heated rhetoric following events on March 5

transformed and interpreted "facts" for many eye witnesses, participants and narrators of the killings. As Barthes suggests, myth can purify facts and give them the "clarity. . .of a statement of fact."[57] The primary historical texts which serve as records of events on March 5, 1770--A Short Narrative and the trial transcript can be described as rhetorical reality. Each was a blend of eye witness testimony of a violent confrontation that had been acted upon by agitative rhetoric. From these documents emerged an historical myth--the Boston Massacre. And from this case study we are reminded that myths are powerful screens through which even eye witnesses filter their perceptions of "real" events. And these "real" events, acted upon by means of mythical orientations common to rhetoric, form our history. Rhetorical myths are vibrant, resonant, and enduring.

NOTES

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